

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**SHERRY EVANS-CARMICHAEL,**

**Plaintiff,**

**vs.**

**CIV. NO.**

**LIBERTY MUTUAL GROUP INC.,  
DBA LIBERTY LIFE ASSURANCE  
COMPANY OF BOSTON,**

**Defendant.**

**DEFENDANT'S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441(a) and (b), Defendant Liberty Life Assurance Company of Boston, ("Defendant") files the following Notice of Removal and would show the Court as follows:

**I.**

An action was commenced by Plaintiff against Defendant in the District Court in and for Los Alamos County, New Mexico. This action is entitled *Sherry Evans-Carmichael v. Liberty Mutual Insurance Group Inc., DBA Liberty Life Assurance Company of Boston*, Case No. D-132-CV-2016-00030 (the "State Action"). The following process, pleadings, and orders have been served on Defendant or have been filed by Defendant in such action, and are attached hereto as Exhibit "1":

- A. Plaintiff's Complaint
- B. Jury Trial Demand
- C. Summons and Notice of Service of Process

A copy of the docket sheet from that action is attached hereto as Exhibit "2."

## II.

This action is removed to this Court pursuant to 28 U.S.C. § 1331, as this action involves claims that relate to the laws of the United States, specifically, the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001, et seq. ERISA applies to any “employee benefit plan” if the plan is established or maintained by an employer or employee organization engaged in commerce or in any industry or activity affecting commerce. 29 U.S.C. § 1003. An “employee benefit plan” is defined as an employee welfare benefit plan or an employee pension benefit plan. 29 U.S.C. § 1002(3). A plan is a welfare benefit plan if it “was established or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, . . . benefits in the event of sickness, accident, disability, death or unemployment.” 29 U.S.C. § 1002(1) (references to other types of employer-provided benefits qualifying as ERISA plans omitted) (emphasis added).

By the State Action, Plaintiff is seeking to recover disability benefits (along with other damages) from a disability benefits plan, in which she was a participant by virtue of her employment with Los Alamos National Laboratory (see, Plaintiff’s Complaint at ¶ 6). Defendant acted as claim administrator and insurer for the disability benefits plan, which is an “employee welfare benefit plan” as that term is defined in 29 U.S.C. § 1002(1) of ERISA. The benefits sought by Plaintiff in the State Action are sought from this ERISA plan. Therefore, this plan and an action for benefits under the plan is governed by ERISA. The Court’s analysis of Plaintiff’s causes of action will necessarily require interpretation of this ERISA plan. Because the preemptive force of ERISA is so powerful that it completely displaces any state law cause of action, Plaintiff’s causes of action will be

“recharacterized” as a federal claim under ERISA. Plaintiff’s causes of action in the State Action are completely preempted by 29 U.S.C. § 1132(a)(1)(B). *Metropolitan Life Ins. Co. v. Massachusetts*, 471 U.S. 724 (1985); *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41 (1987); *Metropolitan Life Ins. Co. v. Taylor*, 481 U.S. 58 (1987). Accordingly, removal to this Court is proper pursuant to 28 U.S.C. § 1441(a) as it is under the original jurisdiction of the Court pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e).

### III.

Defendant was served with this lawsuit on March 11, 2016. Therefore, this Notice of Removal is timely filed within thirty (30) days of service of the Petition upon Defendants.

### IV.

Contemporaneous with the filing of this Notice of Removal, Defendant has given the District Court in and for Los Alamos County, New Mexico, written notice of the same in the form attached hereto as Exhibit “3.”

### V.

The following is a list of counsel of record:

Nancy Cusack  
HINKLE SHANOR LLP  
PO Box 2068  
Santa Fe, NM 87504-2068  
P: 505-982-4554  
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Email: [ncusack@hinklelawfirm.com](mailto:ncusack@hinklelawfirm.com)

Laurie A. Gallegos, Esq.  
THE TRINITY LAW FIRM  
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And

Counsel for Plaintiff

Iwana Rademaekers  
LAW OFFICES OF IWANA RADEMAEKERS, P.C.

14785 Preston Road, Suite 550  
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PH: (214) 579-9319  
FX: (469) 444-6456  
Email: [iwana@rademaekerslaw.com](mailto:iwana@rademaekerslaw.com)

PRO HAC VICE (TO BE REQUESTED)

Counsel for Defendant

Respectfully submitted,

**HINKLE SHANOR LLP**

By: /s/ Nancy Cusack

Nancy Cusack, Esq.  
[ncusack@hinklelawfirm.com](mailto:ncusack@hinklelawfirm.com)

PO Box 2068  
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- AND -

**LAW OFFICES OF IWANA RADEMAEKERS, P.C.**

By: /s/ Iwana Rademaekers

Iwana Rademaekers, Esq.  
Texas Bar No. 16452560  
Email: [iwana@rademaekerslaw.com](mailto:iwana@rademaekerslaw.com)

14785 Preston Road, Suite 550  
Dallas, Texas 75254  
PH: (214) 579-9319  
FX: (469) 444-6456

**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Removal was mailed this 5th day of April, 2016, to opposing counsel of record as follows:

Laurie A. Gallegos, Esq.  
The Trinity Law Firm  
557 Oppenheimer, Ste 101  
Los Alamos, NM 87544  
laurie@thetrinitylawfirm.com

**HINKLE SHANOR LLP**

By: /s/ Nancy Cusack  
Nancy Cusack, Esq.  
ncusack@hinklelawfirm.com

FIRST JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO  
COUNTY OF LOS ALAMOS

SHERRY EVANS-CARMICHAEL,

Plaintiff

No. D-132-CV-2016-00030

Case assigned to Ortiz, Raymond Z.

v.

LIBERTY MUTUAL GROUP INC., DBA LIBERTY LIFE ASSURANCE COMPANY OF  
BOSTON,

Defendants.

**COMPLAINT FOR BREACH OF CONTRACT, BREACH OF DUTY OF GOOD FAITH**

**AND FAIR DEALING, BAD FAITH AND VIOLATION OF THE NEW MEXICO**

**INSURANCE CODE**

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Sherry Evans-Carmichael ("Evans-Carmichael" or "Plaintiff") by and  
through her attorney, The Trinity Law Firm, Laurie A. Gallegos, Esq., for her complaint  
against the Defendant, alleges as follows:

**NATURE OF THE ACTION**

1. Plaintiff's action is grounded on breach of contract by Liberty Mutual Group, Inc.,  
DBA Liberty Life Assurance Company of Boston ("Defendant"), breach of Defendant's

**EXHIBIT**

1

duty of good faith and bad faith and violation of the New Mexico Insurance Code 59A NMSA 1978.

### **JURISDICTION AND VENUE**

2. Jurisdiction rests with this Court because the Short Term Disability policies and Supplemental Employee-Paid Disability Policies (the "Contracts") which form the basis for this action specifically state that the "Governing Jurisdiction is New Mexico and subject to the laws of that State."

3. Plaintiff is informed and believes, and on this basis alleges, that Defendant is a foreign profit corporation registered to do business in New Mexico, with its registered agent's address being 123 East Marcy Street, Suite 101, Santa Fe, New Mexico 87501.

4. Plaintiff is a resident of Los Alamos County, New Mexico.

5. Jurisdiction and venue rests with this Court because the claims arise in this district, the Defendants' wrongful acts occurred and are continuing to occur in this district, and, on the basis of information and belief, the Defendant is found in this district, can receive service of process in this district, resides in this district and/or transacts business in this district.

### **GENERAL ALLEGATIONS**

6. Plaintiff began her employment with Los Alamos National Laboratory ("Employer") in June 1998.

7. Defendant is the insurer of Plaintiff's Short-Term and Long Term Employee Disability policies, also referred to as the Contracts.

8. Plaintiff first became ill in August 2000 after returning home to Los Alamos following the evacuation due to the Cerro Grande Fire in May 2000.

9. Defendant previously provided Plaintiff some supplemental short term disability benefit payments between September 2000 through 2001 based upon her illness.

10. On January 14, 2006, Plaintiff completed and signed the Defendant's Disability Claim Forms for Plaintiff's Employer paid Short Term Disability and Employee Paid Supplemental Disability benefits.

11. A letter from Defendant dated February 2, 2006, acknowledged receipt of the claim for Short Term Disability and Supplemental Disability Benefits. The Attending Physician's Statement and Disability Claim Form were received in Defendant's office on January 31, 2006.

12. On April 1, 2006, Plaintiff completed and signed her Application for Disability Income to the University of California Retirement Plan (UCRP) and later provided the original Application for Disability to the Human Resources Division at Los Alamos National Laboratory.

13. By letter dated April 14, 2006, Defendant notified Plaintiff that her Supplemental disability benefits were denied, alleging that her claim was somehow connected with an earlier claim in 2001.

14. The letter dated April 14, 2006 from Defendant stated that their review was concluded and the claim was closed but that Plaintiff could request review of relevant file documents.

15. The letter dated April 14, 2006 from Defendant stated that "Determinations made by Liberty Life Assurance Company of Boston are based on the provisions outlined in the University of California's Supplemental Disability Policy."



16. Defendant sent a letter to Plaintiff on April 17, 2006 correcting their letter of April 14, 2006, the only correction being that they removed references to California law.

17. On May 1, 2006, Los Alamos National Laboratory submitted Plaintiff's formal Application for Disability Income to the University of California Retirement Plan (UCRP).

18. On June 1, 2006, management of Los Alamos National Laboratory was transitioned from the University of California to Los Alamos National Security, LLC.

19. As alleged by the Defendant, a new Group Disability Income Policy became effective for the new sponsor, Los Alamos National Security, LLC on June 1, 2006.

20. This new Group Disability Income Policy was however supposed to be substantially the same as the previous Group Disability Income Policy.

21. Although Defendant continued to deny Plaintiff's claims for Short Term Disability and Supplemental Disability benefits, ironically, Plaintiff was approved for Total Disability by her employer, the University of California, and assigned a total Disability Date of August 11, 2006.

22. The amount of the Plaintiff's UCRP/employer-paid long-term disability benefit was determined by Plaintiff's employer using her status as an "exempt", "salaried," "full time" employee with her actual monthly salary rate of \$8,369.77 to calculate the monthly payment.

23. Plaintiff's first UCRP Disability check (Check # 622224) was dated 09/01/2006 and covered the period from 08/01/2006 – 08/31/2006.

24. Plaintiff's employer has, on multiple occasions substantiated to Defendant, the Plaintiff's status as a "salaried employee" with an actual monthly salary rate of \$8,369.77.

25. Plaintiff has continued to receive her monthly UCRP/employer-paid long-term disability benefit from her employer using her actual monthly salary rate of \$8,369.77 from September 2006 to date.

26. From April 2006 until May 2014, although Plaintiff's employer paid benefits were approved, Defendant continued to deny Plaintiff's employee paid Supplemental Disability Benefits.

27. In May 2014, approximately 8 years later, after years of evading payment, Defendant finally provided payment but only for Plaintiff's employee paid supplemental Short Term Disability benefit. Additionally, Defendant calculated the benefit amount using a lower salary rate than her actual monthly salary rate, and continued to deny Plaintiff's Supplemental long-term Disability Benefit.

28. During the period of April 2006 until August 2014, Defendant provided multiple inconsistent bases for the denial of Plaintiff's Supplemental Disability Benefits, refused to respond to requests for information, provided false information to Plaintiff, continued to ask Plaintiff to provide the same information over and over, required that Plaintiff fill out voluminous forms and re-submit them on several occasions and discontinued communication with Plaintiff for extended periods of time.

29. After extended correspondence was sent by Plaintiff to Defendant from 2013 through 2014, and Defendant continued to keep requesting more information, in August of 2014, Plaintiff retained legal counsel to assist her with the claims being denied by Defendant for the past 8 years.

30. From August 2014 until December 2014, Defendant required that Plaintiff submit additional paperwork and forms, that Plaintiff be reevaluated by her physicians and Defendant conducted their own peer review using their own physician.

31. Although all requests by Defendant had already been completed by Plaintiff prior to August 2014, Plaintiff complied with the continued requests from August 2014 until December 2014.

32. By letter dated December 29, 2014, Defendant notified Plaintiff's attorney that they accepted liability on Plaintiff's Supplemental Disability Benefits claim but needed more documentation with regard to social security benefits Plaintiff may have received.

33. Plaintiff notified Defendant that social security benefits had been denied to her.

34. By letter dated February 18, 2015, Defendant again requested information regarding social security benefits and notified Plaintiff that they would be issuing payment taking a social security estimate, thereby reducing the benefit paid.

35. The letter of February 18, 2015, further indicated an inaccurate "monthly salary" of \$4,751.59.

36. Based upon this monthly salary, the calculated gross benefit was \$3,326.11, with a reduction for the monthly employer-paid long term disability benefit and a reduction for a social security estimate thereby providing a monthly gross benefit of \$100.00.

37. By letter dated February 19, 2015, Defendant provided a recalculation of benefits for Plaintiff providing a monthly gross benefit of \$204.58.

38. By letter dated March 6, 2015, Plaintiff notified Defendant again that social security benefits had been denied and provided Defendant with a copy of the Denial letter from the Social Security Administration.

39. By letter dated May 11, 2015, Defendant informed Plaintiff that the calculation to reimburse Plaintiff for the social security estimate had been calculated but continued to ask for more information prior to releasing the payment.

40. By letter dated June 9, 2015, Plaintiff again provided all requested information to Defendant, however; Defendant did not release payment for the social security estimate as it indicated would be done and ignored repeated requests to properly calculate the benefit payment using Plaintiff's actual salary rate in accordance with the contract terms.

41. On July 9, 2015, Plaintiff filed a complaint with the Office of Superintendent of Insurance for New Mexico.

42. On or about July 27, 2015, Plaintiff received a check in the amount of \$131,631.00 representing a refund of the social security disability offset taken for the period 9/9/2007- 2/8/2015 pertaining to Plaintiff's supplemental long-term disability benefits.

43. By letter of August 19, 2015, Plaintiff notified Defendant, that although the social security offset was paid, they still failed to calculate the supplemental short-term and supplemental long-term benefits in accordance with the contract terms by failing to use Plaintiff's actual salary rate of \$8,369.77 as had been substantiated on multiple occasions by Plaintiff's employer, resulting in the supplemental employee-paid long term benefit amount being reduced by approximately \$230,000.00 to the date of the letter and a miscalculation of the supplemental employee-paid short term benefit.

44. On August 27, 2015, Plaintiff received a letter from Defendant sent by the original claims manager who had provided inconsistent and false information, failed to respond

to Plaintiff for extended periods of time and continued denying Plaintiff's claims from August 2007 until August of 2014, maintaining that Plaintiff had a "variable appointment" and that her benefit was being calculated contrary to the definitions set forth in the contract.

45. The assertion by Defendant that Plaintiff had a "variable appointment" was in direct contravention to the definitions set forth in the contract and to the information provided by Plaintiff's employer to Defendant on multiple occasions.

46. On July 27, 2015, Plaintiff was informed by the Office of the Superintendent for Insurance for New Mexico that as Plaintiff was represented by Counsel they would take no further action.

47. Due to Defendant's refusal to comply with the terms of the contract and the unavailability of administrative remedies to address Defendant's breach and bad faith, Plaintiff was forced to file this action with this Court.

48. Defendant's actions have caused, and are causing, Plaintiff injuries and damages in kind and amount susceptible of proof at trial including but not limited to: loss of income and benefits; loss of prospective future income and benefits; and severe emotional distress as well as insomnia, anxiety and other illnesses and conditions.

49. Defendants are responsible for the actions of its agents or employees under the doctrine of *respondeat superior*.

50. Defendants have acted outrageously, deliberately, intentionally, maliciously, recklessly, wantonly, willfully and in bad faith, with the clear foreseeability of proximately causing Plaintiff severe emotional distress, in breach of contract and in violation of the

New Mexico Insurance Code, justifying an award of punitive damages against them as may be allowed under appropriate claims set out in this Complaint.

## **COUNT I**

### **BREACH OF CONTRACT**

51. Plaintiff re-alleges each of the allegations set forth in paragraphs 1-50 of this Complaint as if each were set forth fully herein.

52. The Courts of the State of New Mexico have determined that a policy of insurance is a contract.

53. The Defendant delayed approval of Plaintiff's claim for approximately 8 years, and when ultimately approving it, now refuses to provide the proper benefit payment amount in accordance with the terms of the contract.

54. The Defendant's actions constitute breach of the Defendant's contract with Plaintiff.

55. As a direct, foreseeable and proximate result of Defendant's breach of its contract with Plaintiff, Plaintiff has suffered damages of type and amount subject to proof at trial.

## **COUNT II**

### **BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**

56. Plaintiff re-alleges each of the allegations set forth in paragraphs 1-55 of this Complaint as if each were set forth fully herein.

57. The Courts of the State of New Mexico have in proper circumstances found there to have existed a covenant of good faith and fair dealing in contract matters.

58. The Courts of the State of New Mexico have determined that a policy of insurance is a contract.

59. The Defendant delayed approval of Plaintiff's claim for approximately 8 years, and when ultimately approving it, now refuses to provide the proper benefit payment amount in accordance with the terms of the contract.

60. Defendant's actions were performed in an effort to deprive Plaintiff from enjoying the benefits of her contract were done willfully, in bad faith, with wanton disregard of their impact upon Plaintiff, without justification, cause or privilege to do so and constitute a violation of the implied covenant of good faith and fair dealing owed by Defendant to the Plaintiff, and provide an adequate basis for an award of punitive damages against Defendant.

61. As a direct and foreseeable and proximate result of Defendant's breach of the implied covenant of good faith and fair dealing, Plaintiff has suffered damages of type and amount subject to proof at trial.

### **COUNT III**

#### **BAD FAITH**

62. Plaintiff re-alleges each of the allegations set forth in paragraphs 1-61 of this Complaint as if each were set forth fully herein.

63. The Courts of the State of New Mexico have determined that a policy of insurance is a contract and there is implied in every insurance policy a duty on the part of the insurance company to deal fairly with the policyholder.

64. Defendant failed to act honestly and in good faith in performance of the contract.

65. The Defendant delayed approval of Plaintiff's claim for approximately 8 years, and when ultimately approving it, now refuses to provide the proper benefit payment amount in accordance with the terms of the contract.

66. The Defendant's actions were performed in an effort to deprive Plaintiff from enjoying the benefits of her contract, were malicious, willful and wanton, in bad faith, with reckless disregard for the interests of the Plaintiff, and were based upon a dishonest judgement.

67. Defendant's actions constitute a violation of the implied covenant of good faith and fair dealing owed by Defendant to the Plaintiff, and provide an adequate basis for an award of punitive damages against Defendant.

68. As a direct and foreseeable and proximate result of Defendant's bad faith, Plaintiff has suffered damages of type and amount subject to proof at trial.

#### **COUNT IV**

#### **VIOLATION OF THE NEW MEXICO INSURANCE CODE**

69. Plaintiff re-alleges each of the allegations set forth in paragraphs 1-68 of this Complaint as if each were set forth fully herein.

70. 59A-16-20 NMSA 1978 prohibits insurers from failing to acknowledge and act reasonably promptly upon communications with respect to claims from insureds arising



under policies; failing to affirm or deny coverage of claims of insureds within a reasonable time after proof of loss requirements under the policy have been completed and submitted by the insured; not attempting in good faith to effectuate prompt, fair and equitable settlements of an insured's claims in which liability has become reasonably clear; and attempting to settle a claim by an insured for less than the amount to which a reasonable person would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.

71. 59A-16-20 NMSA 1978 further prohibits insurers from compelling insureds to institute litigation to recover amounts due under policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds when such insureds have made claims for amounts reasonably similar to amounts ultimately recovered.

72. The Defendant delayed approval of Plaintiff's claim for approximately 8 years, and when ultimately approving it, now refuses to provide the proper benefit payment amount in accordance with the terms of the contract and guidance that was provided to the Plaintiff when she retained the policy.

73. 59A-16-30 NMSA 1978 provides for a private right of action by the Plaintiff against Defendant and if a violation by Defendant is determined to recover actual damages, costs and attorneys' fees.

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#### **RELIEF**

**WHEREFORE**, Plaintiff seeks the following relief as to the Defendants and all Counts pled in this Complaint:

- a. Actual and compensatory damages sufficient to make the Plaintiff whole;

- b. Punitive damages against the Defendant sufficient to punish and deter further wrongdoing;
- c. Attorney's fees, expenses, costs, pre-judgment and post-judgment interest as may be allowed by law; and,
- d. That this Court award Plaintiff such further and additional relief as the Court deems just and proper.

### **JURY DEMAND**

Plaintiff demands a trial by jury of six (6) persons on all issues triable of right by a jury.

Respectfully submitted by:

THE TRINITY LAW FIRM  
Attorneys for the Plaintiff

By: /s/ Laurie A. Gallegos

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Los Alamos, NM 87544  
(505)662-8955  
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FIRST JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO  
COUNTY OF LOS ALAMOS

No. D-132-CV-2016-00030

SHERRY EVANS-CARMICHAEL,

Plaintiff

v.

LIBERTY MUTUAL GROUP INC., DBA LIBERTY LIFE ASSURANCE COMPANY OF  
BOSTON,

Defendants.

**JURY TRIAL DEMAND**

Plaintiff Sherry Evans-Carmichael ("Evans-Carmichael" or "Plaintiff") by and  
through her attorney, The Trinity Law Firm, Laurie A. Gallegos, Esq., hereby demands a  
trial by jury of six (6) persons on all issues triable of right by a jury.

Respectfully submitted by:

THE TRINITY LAW FIRM  
Attorneys for the Plaintiff

By: /s/ Laurie A. Gallegos

Laurie A. Gallegos  
557 Oppenheimer  
Suite #101  
Los Alamos, NM 87544  
(505)662-8955

Fax: (888)894-2221

laurie@thetrinitylawfirm.com

SUMMONS	
<b>FIRST JUDICIAL DISTRICT COURT</b> <b>STATE OF NEW MEXICO</b> <b>COUNTY OF LOS ALAMOS</b>  Court Address: P.O. Box 2268 225 Montezuma, Ave. Santa Fe, New Mexico 87504/87501 Court Telephone No.: 505-455-8250	Case Number: D-132-CV-2016-00030  Judge: Honorable Raymond Z. Ortiz
<b>SHERRY EVANS-CARMICHAEL, Plaintiff</b> <b>v.</b>  <b>LIBERTY MUTUAL GROUP INC., DBA</b> <b>LIBERTY LIFE ASSURANCE COMPANY</b> <b>OF BOSTON, Defendant</b>	<b>Defendant:</b> <b>LIBERTY MUTUAL GROUP INC., DBA</b> <b>LIBERTY LIFE ASSURANCE COMPANY</b> <b>OF BOSTON</b> <b>Address:</b> 123 East Marcy Street, Suite 101 Santa Fe, New Mexico 87501

**TO THE ABOVE NAMED DEFENDANT(S):** Take notice that

1. A lawsuit has been filed against you. A copy of the **Complaint for Breach of Contract, Breach of Good Faith and Fair Dealing, Bad Faith and Violations of the New Mexico Insurance Code**, is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at [www.nmbar.org](http://www.nmbar.org); 1800-876-6657 or 1-505-797-6066.

Dated at Los Alamos, New Mexico, this 9th day of March 2016.

STEPHEN T. PACHECO  
CLERK OF COURT

By: *Avalita Kaltenbach*

Deputy



Attorney for Plaintiff:  
**THE TRINITY LAW FIRM**  
 Laurie A. Gallegos, Esq.  
 557 Oppenheimer Drive, Suite #101  
 Los Alamos, NM 87544  
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[laurie@thetrinitylawfirm.com](mailto:laurie@thetrinitylawfirm.com)

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 NMRA OF THE NEW MEXICO  
 RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS

**RETURN**

STATE OF NEW MEXICO            )  
  )ss.  
COUNTY OF LOS ALAMOS        )

I, being duly sworn, on oath, say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served the within Summons in said County on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering a copy thereof, with a copy of the Complaint attached, in the following manner:

**(CHECK ONE BOX AND FILL IN APPROPRIATE BLANKS)**

☐ to Defendant \_\_\_\_\_ (*used when Defendant receives copy of summons and complaint or refuses to accept the summons and complaint*)

☐ to Defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (*used when service is by mail or commercial courier service*).

After attempting to serve the summons and complaint on the Defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to \_\_\_\_\_, a person over fifteen (15) years of age and residing at the usual place of abode of Defendant \_\_\_\_\_, (*used when the Defendant is not presently at place of abode*) and by mailing by first class mail to the Defendant at \_\_\_\_\_ (*insert Defendant's last known mailing address*) a copy of the summons and complaint.

☐ to \_\_\_\_\_, the person apparently in charge at the actual place of business or employment by Defendant and mailing by first class mail to the Defendant at \_\_\_\_\_ (*insert defendant's business address*) and by mailing the summons and complaint by first class mail to the Defendant at \_\_\_\_\_ (*insert Defendant's last known mailing address*)

☐ to \_\_\_\_\_, an agent authorized to receive service of process for Defendant \_\_\_\_\_

☐ to \_\_\_\_\_ [parent] [guardian] [custodian] [conservator] [guardian ad litem] of Defendant \_\_\_\_\_ (*used when Defendant is a minor or an incompetent person*).

☐ to \_\_\_\_\_ (*name of person*), \_\_\_\_\_, (*title of person authorized to receive service. Used when Defendant is corporation or association subject to a suit under a common name, a land grant board of trustees, the*

*State of New Mexico or any political subdivision).*

Fees: \_\_\_\_\_

\_\_\_\_\_  
Signature of Person Making Service

\_\_\_\_\_  
Title (if any)

\*Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge, Notary or Other Officer Authorized to Administer Oath

\_\_\_\_\_  
Official Title

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 NMRA OF THE NEW MEXICO  
RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS

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PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
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TO:

Liberty Mutual Group Inc. DBA  
Liberty Life Assurance Company of Boston  
123 East Marcy Street, Suite 101  
Santa Fe, NM 87501

WHEN USED INTERNATIONALLY,  
A CUSTOMS DECLARATION  
LABEL MAY BE REQUIRED.



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EP14F July 2013  
OD: 12.5 x 9.5

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CORPORATION SERVICE COMPANY®

## Notice of Service of Process

Transmittal Number: 14902612  
Date Processed: 03/11/2016

**Primary Contact:** Bruce Buttaro  
Liberty Mutual Insurance Company  
175 Berkeley Street  
Boston, MA 02117

---

<b>Entity:</b>	Liberty Mutual Group Inc. Entity ID Number 2541558
<b>Entity Served:</b>	Liberty Mutual Group Inc., dba Liberty Life Assurance Company of Boston
<b>Title of Action:</b>	Sherry Evans-Carmichael vs. Liberty Mutual Group Inc., dba Liberty Life Assurance Company of Boston
<b>Document(s) Type:</b>	Summons/Complaint
<b>Nature of Action:</b>	Contract
<b>Court/Agency:</b>	Los Alamos County District Court, New Mexico
<b>Case/Reference No:</b>	D-132-CV-2016-00030
<b>Jurisdiction Served:</b>	New Mexico
<b>Date Served on CSC:</b>	03/11/2016
<b>Answer or Appearance Due:</b>	30 Days
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Sherry Evans Carmichael

v.

Liberty Mutual Group Inc

## CASE DETAIL

CASE #	CURRENT JUDGE	FILING DATE	COURT
D-132-CV-201600030	Ortiz, Raymond Z.	03/09/2016	LOS ALAMOS District

## PARTIES TO THIS CASE

PARTY TYPE	PARTY DESCRIPTION	PARTY #	PARTY NAME
D	Defendant	1	LIBERTY MUTUAL GROUP INC
P	Plaintiff	1	EVANS CARMICHAEL SHERRY

ATTORNEY: GALLEGOS LAURIE A.

## CIVIL COMPLAINT DETAIL

COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
03/09/2016	1	OPN COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Breach of Contract

PARTY NAME	PARTY TYPE	PARTY #
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COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
03/09/2016	2	OPN COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Bad Faith

PARTY NAME	PARTY TYPE	PARTY #
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COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
03/09/2016	3	OPN COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Bad Faith

PARTY NAME	PARTY TYPE	PARTY #
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COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
03/09/2016	4	OPN COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Insurance Code

PARTY NAME	PARTY TYPE	PARTY #
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## REGISTER OF ACTIONS ACTIVITY

EVENT DATE	EVENT DESCRIPTION	EVENT RESULT	PARTY TYPE	PARTY #	AMOUNT
03/09/2016	JURY DEMAND 6 PERSON				
03/09/2016	SUMMONS ISSUED				
03/09/2016	OPN COMPLAINT				
	for Breach of Contract, Breach of Duty of Good Faith and Fair Dealing, Bad Faith and Violation of the New Mexico Insurance Code				

## JUDGE ASSIGNMENT HISTORY

ASSIGNMENT DATE	JUDGE NAME	SEQ #	ASSIGNMENT EVENT DESCRIPTION
03/09/2016	Ortiz, Raymond Z.	1	INITIAL ASSIGNMENT

EXHIBIT

2